

Palestinian Legislative Council

Illegal Gains Draft Law

Draft Law No.:

Submitted By :

PLC's Reading:

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Illegal Gains Draft Law

No. () for the year 2002

Article (1)

This Law shall be called the Illegal Gains Law, No. -----, for the year 2002.

Article (2)

The terms and expressions contained in this Law shall have the specific meanings stated below unless stated otherwise:

The Department: Department of Illegal Gains.

Illegal Gains: Any funds that an individual subject to the rules of this Law obtains for himself or for others through the exploitation of his/her job or position, or as a result of any conduct that violates legal provisions (Public Manners “Ethics”), or through any other illegal means, even though it does not constitute a crime. Any increase in wealth occurring after assuming a public post or position shall be considered illegal gain in the case of a person subject to the rules of this Law, or his/her spouse or descendants, if that increase is incompatible with their income and they fail to provide evidence of a legitimate source for that wealth. Likewise, any funds obtained by any natural or judicial person through the complicity of a person subject to the rules of this Law through the exploitation of his/her job or position shall be considered illegal gain.

Article (3)

The following categories shall be subject to the provisions of this Law:

1. Head of the State, his deputies and advisors
2. Head and Members of the Council of Ministers and likewise
3. Members of the Palestinian Legislative Council (PLC).
4. Head and officers of the security and police force.
5. Heads and members of local municipal councils.
6. Heads and Members of the Boards of Directors as well as Executive Directors of companies that have joint venture with the Palestinian National Authority, or any of its agencies or institutions. .
7. Employees subject to the Civil Service Law, with the exception of employees in the Third, Fourth and Fifth categories.
8. Collection officers, their deputies, trustees of deposits and exchange, as well as purchase and sale representative, members of recruitment and sale committees, who belong to third, fourth, and fifth categories mentioned in the above paragraph 7 shall not be excluded
9. Officers and employees of entities which receive their budget or any support from the General Budget of the Palestinian National Authority.

Article (4)

A directorate called “The Illegal Gains Directorate” shall be established at the Financial and Administrative Control Bureau, to be headed by a Director selected by the Council of Ministers and approved by PLC, and a sufficient number of competent and qualified employees, who are known for their integrity, and have not been condemned or accused in any financial, honor, and dishonesty crimes.

Article (5)

The Illegal Gains Directorate shall:

1. Examine all financial asset declarations of those who are subject to the provisions of this law.
2. Maintain all financial declarations, and request any relevant data or clarifications.
3. Investigate complaints submitted regarding illegal gains

Article (5) Repeated

In order to carry out its duties and missions, the Directorate may:

1. Request the necessary declarations and clarifications, and obtain the necessary documents, or duplicates, from the parties concerned, including those considered confidential data or documents, or copies of such documents and papers.
2. Resort to those deemed appropriate from the Judicial control officers, or any other specialized entity.
3. The officials of the department will have the same tasks, functions and duties of Judicial Control Officers.
4. The Directorate will assume its jurisdictions in accordance with the provisions of the law.

Article (6) + (7)

Any person to whom this Law applies shall submit to the Directorate:

1. A declaration of his/her financial assets, or those of his/her spouse and minor children, stating their movable and immovable property, including shares, securities and interest in companies, as well as bank accounts, cash money, jewelry, precious metals and stones, sources of income and the amount of such income., within a period of two months from the date of becoming subject to the rules of this Law.
2. A financial assets declaration every three years. These declarations shall include, in addition to the information stated in the above article, the source of any increase in the financial assets.

Article (8)

Any citizen in possession of reliable information or documents related to an illegal gain shall submit them to the Directorate, or submit a complaint against any person subject to the rules of this Law.

Article (9)

- A. Every public employee who learns of an illegal gain must report it to the Directorate.
- B. The report communicated by an employee to the Directorate pursuant to paragraph "A" above may not constitute a basis for any disciplinary measures against him or for any measures that may affect his position.

Article (10)

If the Directorate believes that the report is trustworthy, it shall ask the person concerned to prove the source and legality of his wealth.

Article (11)

If it was revealed through the declarations or complaints submitted, that there is strong evidence of illegal gain, the Directorate, after conducting the necessary examination, shall refer the papers to the :

1. Public Prosecutor to file a case
2. Refer the documents directly to the relevant court of first instance if the source of the illegal gain is unknown, or the crime had been abated or lapsed in one of the ways in which the common right lawsuits lapse.

Article (12)

The Directorate may sequester the funds of a defendant, or any other funds that it believes belong to him in any hand, as a precautionary measure. It may also inspect the defendant's books and documents, and may get the necessary information from official and non-official departments, and may resort to any expert it deems appropriate to carry out this task.

Article (13)

Any person who obtains illegal gain for himself or facilitates it for others shall be penalized:

1. Imprisonment
2. Fine equal to the amount of the illegal gain
3. Return the value of the illegal gain
4. Deprived of assuming any governmental or public position or job.

Article (14)

1. The court may order that any actual beneficiary of illegal gain who are not mentioned in the previous article, be considered party to the lawsuit, so that the ruling to give back that gain in the amount he benefited, becomes effective.